

Appl. No. 09/499,871  
Amdt. Dated November 29, 2006  
Reply to Office Action of September 6, 2006

RECEIVED  
CENTRAL FAX CENTER  
NOV 29 2006

### REMARKS/ARGUMENTS

Claims 1-50 are pending in the present application.

This amendment is in response to the Office Action mailed September 6, 2006. In the Office Action, the Examiner rejected claims 1-50 under 35 U.S.C. §102(e). Reconsideration in light of the remarks made herein is respectfully requested.

#### *Rejection Under 35 U.S.C. § 102*

In the Office Action, the Examiner rejected claims 1-50 under 35 U.S.C. §102(c) as being anticipated by U.S. Patent No. 6,580,690 issued to Damien ("Damien"). Applicants respectfully traverse the rejection and submit that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Damien discloses a security by doubling at least certain logic paths in a telecommunications network. All the data cells of a main virtual path are copied in a substitute virtual path (Damien, col. 3, lines 34-38). The shift between the main path and the substitute path is to be known at any instant even before a path has received the OAM monitoring cells (Damien, col. 3, lines 44-46; lines 49-51).

Damien does not disclose, either expressly or inherently, at least one of (1) a loop-back path to provide connectivity between the first and second nodes, (2) the first node having a primary connection and a secondary connection, (3) the primary connection carrying the user connections during a normal mode, the secondary connection not using network bandwidth during the normal mode; and (4) a switching element coupled to the loop-back path and the first node to connect the loop-back path to the primary connection during the normal mode and to the secondary connection when there is a failure condition at the primary connection.

Damien merely discloses determining the shift in number of cells between the main path and the substitute path. The method involves counting the number of cells received in both paths (Damien, col. 3, lines 62-67; col. 5, lines 8-18). Since both paths are used to receive cells in order to determine the shift, the substitute path uses the network bandwidth during the normal mode. In contrast, claims 1, 11, 21, 31, and 41 recite, in part, "the secondary connection not using network bandwidth during the normal mode;"

Appl. No. 09/499,871  
Amdt. Dated November 29, 2006  
Reply to Office Action of September 6, 2006

In addition, Damien merely discloses a switching device C1 which forms an interface between the ATM user and the final users and performs a switching function at the level of the virtual circuit (Damien, col. 2, lines 50-53), not a switching element connected between a loop-back path and the first node.

Furthermore, Damien merely discloses inserting OAM cells to monitor the quality of the virtual paths (Damien, col. 3, lines 5-8), not using a re-route handler to control the switching element, as recited in claims 4, 14, 24, 34, and 44.

Moreover, Damien merely discloses switching operation from a slower to a faster path (Damien, col. 6, lines 58-59), not primary and secondary connections having equal connection capacity, as recited in claims 10, 20, 30, 40, and 50.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergasa Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Damien teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Therefore, Applicants believe that independent claims 1, 11, 21, 31, and 41 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejection under 35 U.S.C. §102(e) be withdrawn.

Appl. No. 09/499,871  
Amdt. Dated November 29, 2006  
Reply to Office Action of September 6, 2006

RECEIVED  
CENTRAL FAX CENTER

NOV 29 2006

**Conclusion**

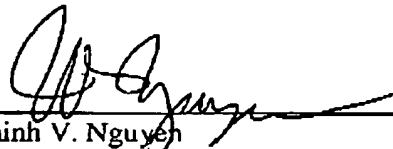
Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: November 29, 2006

By

  
Thinh V. Nguyen

Reg. No. 42,034

Tel.: (714) 557-3800 (Pacific Coast)

12400 Wilshire Boulevard, Seventh Floor  
Los Angeles, California 90025

**CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8A)**

I hereby certify that this correspondence is, on the date shown below, being:

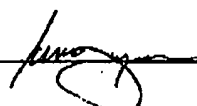
**MAILING**

☐ deposited with the United States Postal Service  
as first class mail in an envelope addressed to:  
Commissioner for Patents, PO Box 1450,  
Alexandria, VA 22313-1450.

Date: November 29, 2006

**FACSIMILE**

☒ Transmitted by facsimile to the Patent and  
Trademark Office.

  
Tu Nguyen

November 29, 2006

Date